



Social Security  
Tribunal of Canada

Tribunal de la sécurité  
sociale du Canada

[TRANSLATION]

Citation: *C. K. v Minister of Employment and Social Development*, 2020 SST 87

Tribunal File Number: AD-19-832

BETWEEN:

**C. K.**

Appellant

and

**Minister of Employment and Social Development**

Respondent

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**SOCIAL SECURITY TRIBUNAL DECISION**  
**Appeal Division**

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DECISION BY: Jude Samson

DATE OF DECISION: February 7, 2020

## DECISION AND REASONS

### DECISION

[1] The appeal is allowed.

### OVERVIEW

[2] C. K. is the Claimant in this case. In 2003, he applied for the Old Age Security pension and the Guaranteed Income Supplement. The Minister of Employment and Social Development approved his applications and paid benefits to the Claimant for several years.

[3] However, after reassessing the file in 2017, the Minister determined that the Claimant was not entitled to the benefits he had received. More precisely, the Minister determined that the Claimant was living primarily in Haiti rather than in Canada. It therefore insisted that the Claimant pay back more than \$115,000.

[4] On December 21, 2017, the Minister sent a decision letter to the Claimant to an address in Haiti. In that letter, it informed the Claimant that he could request a reconsideration of the decision by writing to the Minister within 90 days after the day on which the Claimant received the letter.<sup>1</sup> The Minister submits that the Claimant filed his request for reconsideration after the deadline, and the Minister then refused to grant the Claimant an extension of time.

[5] The Claimant appealed the Minister's refusal to reconsider its initial decision, but the General Division denied his appeal. The Appellant then filed an application for leave to appeal with the Appeal Division, which I granted last month.

[6] The parties to the appeal are now asking the Appeal Division to make a decision based on the consent agreement they reached.<sup>2</sup>

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<sup>1</sup> GD2-374 and GD2-375.

<sup>2</sup> *Social Security Tribunal Regulations*, s 18.

## CONSENT AGREEMENT

[7] Broadly speaking, the parties agree as follows:<sup>3</sup>

- a) The General Division based its decision on an important error regarding the facts of the case under section 58(1)(c) of the *Department of Employment and Social Development Act* (DESD Act). Specifically, the General Division did not consider the material before it, including the content of a letter written by the Claimant in March 2018, and the content of the notes highlighted in the Minister's submissions.<sup>4</sup>
- b) Of the remedies set out in section 59(1) of the DESD Act, the Appeal Division must give the decision that the General Division should have given and refer the matter back to the Minister for reconsideration under the *Old Age Security Act*.

## CONCLUSION

[8] Based on the information available to me, I am satisfied that the appeal should be allowed in accordance with the agreement signed by the parties.

Jude Samson  
Member, Appeal Division

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<sup>3</sup> AD2.

<sup>4</sup> Leave to appeal decision at paras 17 and 18.